Converging Human Rights and Economics?

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Viljam Engström Do 15 Feb 2018 Do 15 Feb 2018

As 2017 came to an end, Independent Expert *Juan Pablo Bohoslavsky* issued his report on the Development of guiding principles for assessing the human rights impact of economic reform policies, in response to the Human Rights Council Resolution 34/3. The work that is projected to result in a set of draft principles during 2018 has its backdrop in the great recession. Although many countries seem to be recovering from the global financial crisis by now, for countries such as Greece, the consequences of socio-economic adjustment are still very tangible. In one way or another austerity measures are predicted to impact on nearly 80 percent of the global population by 2020. Economic adjustment is also likely to stay on the agenda. Population aging, displacement of workers and climate change can all be considered 'macro-critical' developments, challenging economies to adapt for decades to come. There seems to be good reason therefore to keep up an interest in the topic and to look for ways of mitigating the adverse impact of adjustment policies.

As any development of guiding principles, the process is basically driven by an ambition to civilize international politics. However, apart from the normative ambitions, an equally interesting aspect of the report is the faith placed on human rights as an element of economic policy-making. Human rights are presented as countercyclical tools that turn the focus away from short-term macroeconomic targets. The facilitation of future growth is pictured as potentially unsustainable in light of short term impact on rights. Cutting spending on "unnecessary military hardware" is seen as a way of freeing up revenue for human rights investment. And part-time work for retirees and raising the retirement age are envisaged as human rights compliant ways of ensuring the sustainability of pension systems.

While austerity measures are implemented by governments, one of the traditional proponents of austerity policies is to be found at the international level: the IMF. Over at Washington, however, the Fund seems to have stepped up its attention to social protection issues in recent years. This is undoubtedly a reaction to a track record of policy advice and conditionality policies with an adverse social impact. Alongside the fiscal focus a recognition of the importance of social protection and political stability seems to be emerging. Attention, the Fund claims, is now in particular on impact on low-income groups and the most vulnerable in designing fiscal consolidation.

There would be much to say for example about the approach of theIndependent Expert to the human rights obligations of international financial institutions. The question of competence, for one, raises complex questions with implications not only for institutions, but also for human rights law (see e.g. *Schütter*). There is on the other hand certainly also reason to be critical about the extent to which social concerns really have penetrated the policy-making of the IMF. Fiscal objectives, critics claim, are still preferred instead of ensuring respect of the right to social security. IMF has also been blamed for being self-congratulatory on its own activities, misrepresenting the impact of its programmes on social protection systems.

In the midst of all the documentation of the social costs of austerity, the efforts to prove the arguments of the adversary false, and the initiatives for finding applicable standards, the consequences of the two regimes seeking legitimation in a turn to one another would deserve more attention. To begin with, such a move is not necessarily all that surprising. As states operate with finite resources, no politico-economic decisions can be made that would not have an impact on the rights of someone. This includes military spending! At the same time a prioritization between competing claims to rights cannot be made without adding an external perspective. As there can hardly be any commitment to human rights that would not also be a commitment to a particular theory of economic development (following *Koskenniemi*), any vision of a 'more human rights compliant' fiscal policy will, at heart, be a vision also of preferable economic policy.

Introducing rights into economic policy-making can surely broaden the set of concerns to be taken into account. It can introduce a more detailed set of requirements by which to assess the social impact of adjustment. Rights-talk also comes with an expectation of justification. A human rights-based approach may well provide normative guidance to policymakers. Apart for the most extreme cases (such as when social benefits are "wholly insufficient" (*Budina v. Russia*)), this guidance will however not necessarily in itself be any less contentious. After all, if there is one thing that the great recession has shown us, it would be the profound lack of agreement among economists on how to best steer a country out of an acute crisis. Economics, then, rather than solving the issue of competing rights, offers another language with which to continue the discussion (as shown e.g. by *Desierto*).

The adequacy of pensions, equality, mitigating impact on the poor, and protecting vulnerable persons and groups currently seem to rank high on the agenda of both economists and human rights lawyers. If this is a sign of convergence between the two regimes, it would be more than welcome as that may be the only way of overcoming the hegemonic struggle over which vocabulary to frame the discussion in. Such convergence will of course not in itself provide an answer to how to design sustainable pension systems, or whether to prefer targeted protection to vulnerable groups before universal benefits. Nor will it solve the question of whether to reduce or increase social spending in economic downturns. What it may indicate, however, is a gradual move to at least discuss in a similar language. This is an important precondition for engaging two antagonistic regimes in a discourse on social justice.

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